HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

Writ Appeal No.1258 of 2006

Between:

A.P. State Financial Corporation
Rep. by its Managing Director

… Appellant

And

B. Prabhakar Rao

… Respondent

::JUDGMENT::

Counsel for the appellant: Sri T. Durga Reddy

Counsel for the respondent: Sri M. Ravindranath Reddy

December 04, 2006

Per G.S. Singhvi, CJ

This is an appeal for setting aside order dated 22.6.2006 passed by the learned Single Judge whereby he dismissed WVMP No.599 of 2006 filed by the appellant and confirmed interim order dated 12.12.2005.

A perusal of the record shows that in furtherance of notification dated 14.8.2003 issued on behalf of the appellant – Andhra Pradesh State Financial Corporation (for short, 'the Corporation') for sale of

Plot No.5, Road No. 13, Banjara Hills, Shaikpet Mandal, Hyderabad, the respondent gave an offer of Rs.50,40,000/-. His officer was accepted by the Managing Director of the Corporation. This was reflected in letter dated 14-10-2003 sent to the respondent by the Assistant General Manager of the Corporation. In terms of the conditions incorporated in the letter of acceptance, the respondent was required to pay the sale consideration within 30 days from the date of confirmation of sale, which he failed to do so. Instead, he engaged the Corporation in the maze of correspondence by asserting that the plot in question was subject matter of litigation instituted by the State Government under the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982 and even the identity of the plot was not clear. The Corporation tried to convince the respondent that the plot was free from all encumbrances and he can take possession after depositing the sale consideration. However, the latter continued to insist that the plot offered to him was in dispute. This compelled the Corporation to issue notice dated 01.12.2005, whereby the plot was again put to sale. At that stage, the respondent filed Writ Petition No.26367 of 2005 along with WPMP No.33891 of 2005. By an order dated 12.12.2005, the learned Single Judge stayed the proceedings initiated by the Corporation for re-sale of the plot.

On receipt of the notice issued by this Court, the Corporation filed an application for vacating interim order
dated 12.12.2005. Along with the vacate petition, the Corporation filed the entire correspondence which took place between its officers and the respondent and pleaded that the action initiated for re-sale of the property was legally correct and justified. The application filed by the Corporation was registered as WVMP No.599 of 2006. By the impugned order, the learned Single Judge dismissed the application

albeit without assigning any reason and confirmed the interim order.

Shri T. Durga Reddy argued that the impugned order is liable to be set aside because the learned single Judge has not assigned any reason, whatsoever, for declining the appellant's prayer for vacating the interim order. Learned counsel emphasized that the appellant had produced ample evidence to show that the plot in question is free from encumbrances and the respondent had deliberately delayed payment of the sale price, but without adverting to the affidavit filed in support of WVMP No. 599 of 2006 and document annexed with it, the learned single Judge dismissed the same by recording one line order.

Shri M. Ravindranath Reddy fairly stated that the impugned order does not reflect consideration of the factual matrix of the case, as set out in WVMP No. 599 of 2006 and the documents annexed with the affidavit filed on behalf of the Corporation. He also contended that the learned single Judge has not assigned any reason for dismissing the vacate petition.

In view of the fair statement made by the learned counsel for the respondent, we do not consider it necessary to dilate on the merits of the case set up by the appellant and deem it proper to set aside the order under challenge with the direction that WVMP No.599 of 2006 filed by the appellant be decided afresh. Ordered accordingly. WVMP No. 599 of 2006 shall now be listed before an appropriate Bench on 13-12-2006 for fresh adjudication of the prayer made by the appellant.

As a sequel to dismissal of the appeal, WAMP No.2644 of 2006 filed by the appellant for interim relief is disposed of as infructuous.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

December 04, 2006

svs